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OFFICE OF PETITIONS

In re Application of :
Rooney, et al. : LETTER REGARDING PTA AND
Application No. 09/931,125 : CERTIFICATE OF CORRECTION
Filed: August 16, 2001 :
Atty. Dkt. No.: 01 P 14516 :
(8055-26) :

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed September 12, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed June 14, 2005 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 522 days. Applicants, however, indicate that as a result of the application being subject to a terminal disclaimer, the application is not entitled to any PTA.

The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 522 days, subject to any terminal disclaimers that have been filed.

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

There is no indication that John G. Rauch herein was ever empowered to prosecute the instant application. If Mr. Rauch desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application is being forward to the Publications Division for issuance of patent. Any delays in issuing the patent pursuant to 37 CFR 1.702(a)(4) or 1.702(b) will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to the patent issue date.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
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